

**United States District Court**

WESTERN

DISTRICT OF

VIRGINIA

JULIA C. DUDLEY CLERK  
BY:  
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

KENNEDY, CHARLES EDGAR  
 DOB 12/30/55 SS# 234946162  
~~29388 JEB STUART HWY~~ <sup>710 SOUTH NEW</sup>  
~~DAMASCUS VA 24236~~ <sup>SHADY AVE.</sup>

**CRIMINAL COMPLAINT**

CASE NUMBER: 7:12PO-314-315

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 30th, 2012 in Bedford county, in the

Western District of Virginia defendant(s) did, (Check Statutory Language of Offense)

- 1) POSSESS, DESTROY, REMOVE, DIG PLANTS OR THE PARTS OR PRODUCTS THEREOF (GINSENG) 314
- 2) PROVIDE FALSE INFORMATION TO US GOV AGENT 315

in violation of Title 36 CFR United States Code, Section(s) 2.1(a)(1)(ii), 2.32(a)(3)

I further state that I am a(n) US Park Ranger and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof:  Yes  No

  
 Signature of Complainant

Sworn to before me and subscribed in my presence,

October 1, 2012  
 Date

at Roanoke, VA

City and State

Michael F Urbanski, U.S. MAGISTRATE/JUDGE  
 Name & Title of Judicial Officer

Signature of Judicial Officer

## AFFIDAVIT

I, Zeph L. Cunningham, am a commissioned federal law enforcement officer employed by the National Park Service and stationed on the Blue Ridge Parkway. I have served as an U.S. Park Ranger for 20 years. I am authorized by law (16 USC 1a-6) to make arrests and to investigate crimes and other activities that occur within areas managed by the National Park Service.

On September 30, 2012 I observed a truck parked at Headforemost Overlook on the Blue Ridge Parkway in Bedford County. No one was around the vehicle for a long period of time. There are no trails or points of interest located at the overlook. I placed the vehicle under surveillance until a male and female subject came walking from the north to the truck. Both individuals were dressed in camouflage and the mail subject was wearing a backpack. I observed both subjects hands and fingers to be abnormally black dirt covered, black dirt caked under their fingernails, and pants knees covered in black dirt as if they had been kneeling in dirt for long periods of time.. From past experience I knew this area had a population of ginseng and that people illegally digging it had dirt on the hands, knees, and under the fingernails. The amount of dirt I observed was abnormal for anyone hiking even if they had fallen some.

I asked both subjects what they were doing and they said they had been hiking off the beaten path. I asked what was in the backpack and he said they had carried their lunch in it. I asked for consent to look in the backpack and the male subject handed it to me and said go ahead. The backpack was empty except for a large amount of fresh black dirt and woody debris. One pocket was full of plastic grocery bags also known by me to be used to store and haul ginseng. There was no evidence of lunch or trash associated with eating. Both subjects denied digging ginseng. During the entire contact the female subject was very nervous and keep trying to talk but the

male would cut her off. Both subjects were identified and released. They left north bound on the parkway.

I started walking the parkway shoulder north, about  $\frac{1}{2}$  mile north of the overlook I cut a human track into the woods. I followed it up the bank to a huge rock where I found a plastic grocery bag full of freshly dug ginseng (approx.4 lbs) and two digging tools. The bags matched the bags in the backpack. I notified Ranger Cook to go north and attempt to stop the truck. The truck was stopped at Terrapin Mtn. Overlook. The female subject immediately admitted that the male was digging ginseng and that he had hidden it before approaching their vehicle because she told him they had seen police in the area. She also told us there was another bag of Ginseng (approx 3 lbs) under the seat of the truck. The male subject identified as Charles Kennedy continued to deny any involvement and said he knew nothing about what we were talking about. He continued to provide me false information about the day's events. I placed him under arrest and transported him to the Roanoke City Jail. In route to the jail Kennedy under his free will told me he had dug the ginseng, hid it before coming to the vehicle and was planning to go back and get it and his tools. He took full ownership for the ginseng and all illegal activities that day.

*Zeph L. Cunningham*  
Zeph L. Cunningham  
U. S. Park Ranger

Sworn to before me this 1st Day of October 2012

*Michael F Urbanski*  
Michael F Urbanski  
United States Magistrate Judge

*DISTRICT*